

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. HSJ920030063US1

In re Application of:
JAMES FREDRICK PARKER

Serial No.: **10/675,523**

Filed: **SEPTEMBER 30, 2003**

For: **METHOD AND SYSTEM FOR
COMPUTER IMPLEMENTED
MANAGEMENT OF ASSEMBLY
MANUFACTURE**

§
§ Ex.: **KELLY SCAGGS CAMPEN**
§
§ Confirmation No.: **6087**
§
§ Art Unit: **3691**
§
§
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§

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Request is herein submitted contemporaneously with a Notice of Appeal, filed in response to the Final Office Action dated September 22, 2008, having a shortened statutory period set to expire December 2, 2008. No extensions of time are believed to be required; however, in the event an extension of time is required for the Request, that extension of time is hereby requested. Please charge any fee associated with an extension of time as well as any other fee necessary to further the prosecution of this application to Hitachi Deposit Account 50-2587.

REMARKS

In the final rejection dated September 22, 2008, the Examiner has rejected Claims 1-8 of the present application under 35 U.S.C. §103(a) as being unpatentable over *Scott et al.*, US 2004/0073507. Applicant believes that rejection is not well founded.

ARGUMENTS

The claims in the present application are directed to a computer implement method for supplier management and component price negotiation. Claim 1, the only independent claim in the present application, expressly recites the following steps for that method:

"maintaining a database listing possible suppliers for a specified assembly component;
hierarchically ranking said possible suppliers within said database utilizing a plurality of scoring parameters;
automatically selecting a limited number of possible suppliers based upon said hierarchical rankings;
issuing an invitation to a bidders conference to each of said limited number of possible suppliers;
thereafter, specifying to each of said limited number of possible suppliers an identity of all of said limited number of possible suppliers; and
negotiating a final price and selecting a designated supplier for said specified assembly component following said bidders conference."

An important feature of Claim 1 of the present application is the provision which recites that the identity of "all of said limited number of possible suppliers" is specified to "each of said limited number of possible suppliers ..."

As set forth in paragraph 28 on page 7 of the present application this step recites an important element of the presently claimed method. As expressly recited in paragraph 28 "as

part of this bidder's conference process, the identity of each conference participant is published to all conference participants as depicted at block 66. Thus, each supplier present at the bidders's conference will have knowledge of all competitive suppliers currently bidding to provide a particular component. Experience has determined that this process is likely to result in a most efficient determination of pricing for particular components and assemblies."

The *Scott* reference, relied upon by the Examiner, at paragraph 109 on pages 13 and 14 specifically note that an existing supplier may be notified regarding a new supplier "including information regarding the new supplier's winning bid..." indicating that selective existing suppliers may be notified of the existence, and presumably the identity, of new suppliers only after that new supplier has submitted a winning bid. Applicant urges that this can not be said to show or suggest "specifying to each of a limited number of possible suppliers" (including suppliers who have not previously supplied the assembly component) an identity of all of the limited number of possible suppliers ..." as expressly set forth within claim 1. (emphasis added)

In review the Examiner's final rejection in response to this argument Applicant notes that the Examiner takes three different positions. Specifically , "in response to Applicant's argument that the references fail to show certain features of the Applicant's invention, it is noted that the features upon which the Applicant relies (i.e., bidders are identified after submitting a winning bid) are not recited in the rejected claim(s)." This is true as this is not a feature which Applicant has argued or relied upon and thus, it is not surprising that this feature is not set forth within Applicant's claims.

Next, the Examiner notes "in response to applicant's argument that the references failed to show certain features of Applicant's invention, it is noted that the features upon which Applicant relies (i.e., negotiate final price after all bidders are publicly identified) are not recited in the rejected claim(s)." Applicant strongly disputes the Examiner's position with regard to this reason.

As set forth above with respect to Claim 1, the claim expressly recites the issuing of an invitation to a bidders conference of each "of said limited number of possible suppliers" and then

expressly recites "thereafter, specifying to each of said limited number of possible suppliers an identity of all of said limited number of possible suppliers ..." Thereafter, the claim concludes by reciting "negotiating a final price and selecting a designated supplier for said specified assembly component following said bidder's conference." Thus, Applicant urges that the broadest reasonable interpretation of this language must necessarily lead to the conclusion that the identity of "all of said limited number of possible suppliers" specified to "each of said limited number of possible number of suppliers" must take place prior to the awarding of a contract as once a contract has been awarded the claim clearly refers to a "designated supplier ..." The aforementioned reference to "possible suppliers" clearly gives rise to the irrebuttal presumption that the identity of these individuals is disclosed prior to the awarding of a contract. As *Scott* et al. clearly only contemplates disclosing of the identity of a new successful bidder to a previous successful bidder after the new successful bidder has been awarded the contract, Applicant urges that the disclosure of *Scott* can not be said to show or suggest the invention set forth in Claim 1 of the present invention.

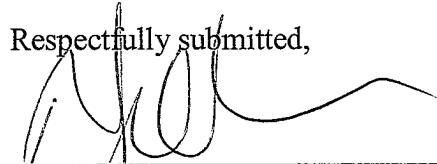
Further, as the specification clearly recites that it is an intended purpose of the disclosure of the identity of all possible suppliers to each possible supplier prior to awarding the contract, in order to illicit the lowest possible bids, the Examiner's position is even more clearly inconsistent with a broadest reasonable interpretation of the present claims.

Finally, the Examiner expressly notes a belief at page 4 of the final rejection that the interpretation set forth above, that "possible" suppliers means "before the winning bid" is not expressly recited within the rejected claims. This is true; however, no other possible interpretation of "possible" suppliers would seem to be reasonable under the rules of the English language.

The Examiner takes apparent comfort in the use of the transitive word "comprising" within Applicant's claims: however, despite the flexibility which that transitive word imparts, Applicant respectfully urges that the clear difference in meaning between "possible suppliers" and "a designated supplier" make it apparent that the claims in the present application are not shown or suggested by an application in which the identity of a single successful bidder is

and "a designated supplier" make it apparent that the claims in the present application are not shown or suggested by an application in which the identity of a single successful bidder is disclosed to a previous supplier following the submission of a winning bid. Consequently, Applicant urges that the Examiner's rejection is not well founded and this request for Pre-Appeal Brief Conference is based upon that belief.

Respectfully submitted,



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